

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 3, 2004. Claims 1-10 remain pending in this application. Claims 1 and 8 are the independent claims. Favorable reconsideration is respectfully requested.

Applicant notes with appreciation the indication that Claims 2-7 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.. Applicant respectfully refrains from so amending Claims 2-7 at this time because they believe their respective base claim to be allowable.

On the merits, the Office Action rejected Claims 1 and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Bergstrom et al. (U.S. Patent no. 4,716,573; hereinafter "Bergstrom"). Applicant respectfully traverses the rejection as being in error.

Bergstrom fails to recite or suggest updating the list in respect of the frequencies it contains between successive selections of a frequency therefrom, the detail of each updating being dependent upon the part of the succession of frequencies so far selected, wherein each updating is such as to result in a list which contains a respective subset of the frequencies contained in the list from which the first frequency of the succession of

frequencies was selected. Rather, Bergstrom reduces the effects of narrowband jammers between two stations using a pseudo random frequency hopping. The transmitting frequency from a first to a second station is periodically changed. A plurality of fixed frequencies is available for the frequency hopping, each of which has a status value. Sending a signal from a first station to a second on one of the fixed frequencies to test the channel quality of that frequency generates status values. The second station measures the quality of the channel and sends it back to the first station which applies a quality status value whether the frequency should be used to transmit or another should be selected. (See, e.g., Col. 2, lines 1-25) State matrix X contains information on presently permitted and prohibited frequencies derived from the quality status values. Matrix X is updated with the results of previous channel quality measurements and edited by allowing previously prohibited frequencies, disallowing previously permitted frequencies, or adding new frequencies previously unused. This fails to anticipate a subset generation during updating because the list may be expanded by adding frequencies. Thus Bergstrom fails to recite every element of Applicant's Claim 1 and Applicant respectfully traverses the rejection.

Claim 8 recites an apparatus substantially corresponding to the method of Claim 1 and is believed patentable for at least the same reasons.

Claims 9-10 depend from one or another of the independent Claims discussed above and are believed patentable for at least the same reasons. Further, Applicant respectfully believes Claims 9-10 to be independently patentable and request separate consideration of each claim.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the currently-pending claims are clearly patentable. Accordingly, entry of this amendment, reconsideration of the rejections of the claims over the references cited, and allowance of this application is earnestly solicited.

Respectfully submitted,

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